

a cable operator may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 relating to must-carry complaints. In addition to the requirements of § 76.7, such complaint shall specifically allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

(4) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other time period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

(b) *Complaints regarding carriage of qualified local NCE television stations.* (1) Whenever a qualified local NCE television station believes that a cable operator has failed to comply with the signal carriage or channel positioning requirements, pursuant to §§ 76.56–76.57, the station may file a complaint with the Commission in accordance with the procedures set forth in § 76.7. In addition to the requirements of § 76.7, such complaint shall specifically allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

(2) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for a period of time the Commission deems appropriate for the specific case under consideration. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

[58 FR 17362, Apr. 2, 1993]

§ 76.62 Manner of carriage.

(a) Cable operators shall carry the entirety of the program schedule of any television station (including low power television stations) carried by the system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under § 76.67 or subpart F of part 76, or unless carriage is pursuant to a valid retransmission consent agreement for the entire signal or any portion thereof as provided in § 76.64.

(b) Each such television broadcast signal carried shall be carried without material degradation in compliance with technical standards set forth in subpart K of this part.

(c) Each local commercial television station whose signal is carried shall, to the extent technically feasible and consistent with good engineering practice, be provided no less than the same quality of signal processing and carriage provided for carriage of any other type of standard television signal.

(d) Each qualified local noncommercial educational television station whose signal is carried shall be provided with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried.

(e) Each commercial broadcast television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

(f) Each qualified local NCE television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers, that may be necessary for

receipt of programming by handicapped persons or for educational or language purposes.

[58 FR 17362, Apr. 2, 1993, as amended at 59 FR 62345, Dec. 5, 1994]

§ 76.64 Retransmission consent.

(a) After 12:01 a.m. on October 6, 1993, no multichannel video programming distributor shall retransmit the signal of any commercial broadcasting station without the express authority of the originating station, except as provided in paragraph (b) of this section.

(b) A commercial broadcast signal may be retransmitted without express authority of the originating station if—

(1) The distributor is a cable system and the signal is that of a commercial television station (including a low-power television station) that is being carried pursuant to the Commission's must-carry rules set forth in § 76.56;

(2) The multichannel video programming distributor obtains the signal of a superstation that is distributed by a satellite carrier and the originating station was a superstation on May 1, 1991, and the distribution is made only to areas outside the local market of the originating station; or

(3) The distributor is a satellite carrier and the signal is transmitted directly to a home satellite antenna, provided that:

(i) The broadcast station is not owned or operated by, or affiliated with, a broadcasting network and its signal was retransmitted by a satellite carrier on May 1, 1991, or

(ii) The broadcast station is owned or operated by, or affiliated with a broadcasting network, and the household receiving the signal is an unserved household.

(c) For purposes of this section, the following definitions apply:

(1) A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that

such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing;

(2) A superstation is a television broadcast station other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier;

(3) An unserved household with respect to a television network is a household that

(i) Cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network, and

(ii) Has not, within 90 days before the date on which that household subscribes, either initially or on renewal, received secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with the network.

(4) A primary network station is a network station that broadcasts or rebroadcasts the basic programming service of a particular national network;

(5) The terms "network station," and "secondary transmission" have the meanings given them in 17 U.S.C. 111(f).

(d) A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, or a satellite master antenna television system operator, that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) The retransmission consent requirements of this section are not applicable to broadcast signals received by master antenna television facilities or by direct over-the-air reception in conjunction with the provision of service by a multichannel video program distributor provided that the multichannel video program distributor makes reception of such signals available without charge and at the subscribers option and provided further